

UNION EXHIBIT 7

STATE OF OHIO)

COUNTY OF CUYAHOGA)

AFFIDAVIT OF LINDA QUINN




NOW COMES, Linda Quinn, first being duly sworn under oath and hereby states the following:

1. I am a Professor of Practice in the Department of Mathematics and Statistics at Cleveland State University and a member of the CSU-AAUP bargaining unit. I have served as interim President of the CSU-AAUP since March 2022. I have been a member of the CSU-AAUP Executive Committee from August 2016 to the present. In addition to serving as interim President, I have held the following elected offices of the CSU-AAUP: 2016-2018 Lecturer-at-Large; 2018-2020 Secretary; 2020-present Treasurer.
2. This affidavit is being provided in support of the CSU-AAUP's Position Statement in response to the Unfair Labor Practice Charge filed by Dr. Bryan Pesta, SERB Case No. 2022-ULP-04-0045.
3. Dr. Pesta never notified the CSU-AAUP of the investigation that had been conducted by the NIH, nor requested any representation in the investigation.
4. The Research Misconduct Policy and the role of the Investigation Committee is not referenced in the CBA. However, the Investigation Committee is required to provide extensive due process protections for the accused faculty member throughout the investigation. In addition, because the investigation is conducted pursuant to the University's Research Misconduct Policy, and not addressed in the CBA, the accused faculty member can be represented by the CSU-AAUP or by private counsel.
5. On December 6, 2021, the CSU-AAUP Executive Committee was informed about Dr. Pesta's case by Dr. Browning. When these cases are discussed, the specific faculty member is not identified, and the case is described in general terms.
6. In his ULP Charge, Dr. Pesta blames the Union for not filing a grievance as of December 6, 2021. However, the Report of the Investigation Committee was not final at that point. The Provost had not recommended any discipline. There was nothing to grieve, although the matter had been brought to the attention of the Executive Committee.
7. On February 9, 2022, Dr. Browning again updated the Executive Committee about the case but, again, did not identify Dr. Pesta by name. He discussed the process in the CBA in the event that the Provost determined that the faculty member should be terminated and the role that the CSU-AAUP played in that process.
8. Following the February 28 and March 2, 2022 emails from Dr. Pesta, Dr. Browning and Dr. Allensworth-Davies discussed the case in depth with members of the CSU-AAUP Executive Committee. They decided that the Union would not prevail in arbitration given the unanimous findings of the ad hoc committee and the fact that Dr. Pesta's defenses were simply that everyone along the lines misunderstood the situation. Dr. Pesta blamed the researchers and other academics who initially raised the issues about his research misconduct, the investigators at the NIH, the University's Investigation Committee, the Provost, and the entire ad hoc committee.

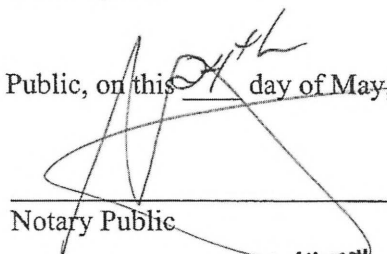
His defenses did not address the merits of the allegations and mainly included simple denials that he meant to do anything wrong. Given the level of due process that Dr. Pesta had throughout the process, his failure to rebut the charges, the seriousness of the charges, and the overwhelming evidence against him, the Executive Committee determined that, on the merits, they would not be successful in arbitration. Dr. Browning and Dr. Allensworth-Davies then looked to see if there were any procedural violations which might be grievable and found none. Dr. Pesta was provided with every protection in the CBA.

9. Article 8 of the CBA includes a step in the discipline process under which the Provost must convene an ad hoc committee comprised of three bargaining unit faculty and three administrators with faculty rank to conduct a hearing on any proposed sanction. The intent of this step is to provide a step in which the faculty member can be heard, the allegations addressed, and a resolution proposed. It has been used successfully to avoid arbitration of discipline for many years. If the ad hoc committee is split in its findings, or if the Provost imposes disciplinary action which exceeds the recommendation of the ad hoc committee, then the CSU-AAUP will have a greater chance of prevailing in a subsequent arbitration. However, if the ad hoc committee's decision is unanimous and if the Provost's decision is consistent with the recommendation of the ad hoc committee, then the likelihood of success in a subsequent arbitration is low, absent procedural irregularities. That is what factored into the decision by the Executive Committee of the CSU-AAUP when they determined not to grieve and arbitrate Dr. Pesta's termination.

Affiant further sayeth naught.


Linda Quinn

Sworn to and subscribed to before me, a Notary Public, on this 21st day of May, 2022.


Notary Public

SUSANNAH MUSKOVITZ, Attorney
NOTARY PUBLIC - STATE OF OHIO
My commission has no expiration date.
Section 147.03 B.C.